

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Wittkotter  
App. No.: 10/047,275  
Filed: January 15, 2002  
For: DATA PROCESSING APPLIANCE

Confirmation No.: 4501  
Group Art Unit: 2681

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OFFICE OF PETITIONS

BOX DAC  
Commissioner for Patents  
Washington, DC 20231

**PETITION TO CLAIM BENEFIT UNDER 35 U.S.C. 365(c) OF A  
PRIOR COPENDING INTERNATIONAL APPLICATION DESIGNATING THE  
UNITED STATES OF AMERICA  
(37 C.F.R. § 1.78(a)(3))**

Sir:

Applicant hereby petitions in accordance with § 1.78(a)(3), to claim the benefit, for this application under 35 U.S.C. 365(c), of International Application No. PCT/EP00/06824, with an international filing date of July 17, 2000, designating the United States.

Applicant states that the entire delay between the date the claim for the benefit of the earlier application was due under paragraph 37 C.F.R. § 1.78 (a)(2) and the date this claim is filed was unintentional.

Statement In Support of Unintentional Delay

Applicant filed PCT/EP00/06824, on July 17, 2000, designating the United States, and claiming priority to German patent application DE19932703.3, filed July 15, 1999. Applicant subsequently filed a Demand for international preliminary examination, thereby extending the deadline for entering the national phase until 30 months from the filing date of the priority application, i.e., 30 months from July 15, 1999. On January 15, 2002, before the 30-month deadline for entering the national phase, the pro se Applicant filed an application with the United States Patent and Trademark Office ("USPTO") using forms available on the USPTO website.

Applicant filed a Declaration with the application that lists the German priority document and the PCT application. The pro se Applicant did not make a claim or otherwise designate the U.S. application as a continuation of the PCT application on the Utility Transmittal Sheet or by way of a Preliminary Amendment. Pro se Applicant further filed an English translation that included the heading "Cross-Reference to Related Applications" and that incorrectly indicated that the heading was "Not Applicable."

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This file was recently transferred to our law firm for prosecution. Upon an initial review of the file, it was noted that this application may not be considered a continuation of the PCT application as the Applicant intended. However, the prosecution file evidences that this application was intended to claim priority to the PCT application in that it was timely filed before the end of 30 month deadline for entering the national phase and that the applicable priority documents were listed on the Declaration filed with the application. Applicant also notes that the Filing Receipt did print with the "Foreign Applications" from the Declaration and that the application was published on August 15, 2002, indicating that the Office of Initial Patent Examination entered the priority document numbers from the Declaration and thereby instigating publication from the earlier date. However, Applicant further notes that in the USPTO PAIR website, no priority data has been entered for this application.

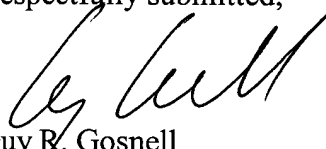
The surcharge fee set forth in 37 CFR §1.17(t) of \$1,300.00 is paid as follows:

- ☒ check enclosed  
☐ authorization to charge deposit account 16-0605

Any additional fee may be charged or any overpayment credited to our Deposit Account No. 16-0605.

For your convenience, a Preliminary Amendment to the specification indicating the priority being requested is enclosed.

Respectfully submitted,

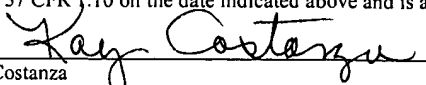
  
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Date of Deposit: February 20, 2003

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to Box DAC, Commissioner for Patents, Washington, DC 20231.

  
Kay Costanza

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